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PATENT  
1259-0191P

IN THE U.S. PATENT AND TRADEMARK OFFICE

In re application of

Before the Board of Appeals

RECEIVED

Kouki HATAKEYAMA

Appeal No.:

JUL 1 2001

Appl. No.: 08/841,318

Group: 2612

Technology Center 2600

Filed: April 30, 1997

Examiner: A. Harrington

Conf.: 3061

For: A METHOD OF CONTROLLING THE DISPLAY MODE  
AND THE RECORDING MODE OF AN ELECTRONIC  
STILL CAMERA

REPLY BRIEF TRANSMITTAL FORM

Assistant Commissioner for Patents  
Washington, DC 20231

May 29, 2001

Sir:

Transmitted herewith is a Reply Brief (in triplicate) on behalf of the appellants in connection with the above-identified application.

- ☐ The enclosed document is being transmitted via the Certificate of Mailing provisions of 37 C.F.R. § 1.8.

The Examiner's Answer was mailed on March 29, 2001.

- ☐ An extension of time under 37 C.F.R. § 1.136(b) to was requested on and was approved on .

- ☐ Please charge Deposit Account No. 02-2448 in the amount of \$0.00. A triplicate copy of this sheet is attached.

Appl. No. 08/841,318

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

BIRCH, STEWART, KOLASCH & BIRCH, LLP

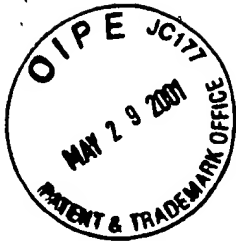
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Attachments

(Rev. 01/22/01)



PATENT  
1259-0191P

IN THE U.S. PATENT AND TRADEMARK OFFICE

In re application of

Kouki HATAKEYAMA

Application No.: 08/841,318

Filed: April 30, 1997

For: A METHOD OF CONTROLLING THE DISPLAY  
MODE AND THE RECORDING MODE OF AN  
ELECTRONIC STILL CAMERA (As Amended)

Before the Board of Appeals

Appeal No.:

Group:

Examiner:

2612

A. Harrington

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Technology Center 2600

**REPLY BRIEF ON BEHALF OF APPELLANT UNDER 37 C.F.R. § 1.193(b)**

Assistant Commissioner for Patents  
Washington, DC 20231

May 29, 2001

Sir:

This is a Reply Brief to the Examiner's Answer mailed March 29, 2001, the  
Reply Brief now due by May 29, 2001.

**New Points of Argument Raised by Examiner's Answer**

The purpose of this Reply Brief is to respond to new points of argument  
raised in the Examiner's Answer. Appellant is not in disagreement with  
paragraphs (1) - (10) of the Examiner's Answer. The specific new points of  
argument that are addressed in paragraph (11) to which Appellant disagrees are  
as follows:

- I. The Examiner's allegation that Sasaki's driving method provides adequate motivational support to modify Iura's camera (see page 10, lines 8-16 of paragraph (11) "Response to Argument" of the Examiner's Answer).
- II. The Examiner's assertion that Sugihara's stripe color filter *clearly* shows that *each of the pixels in the even and odd adjacent odd scanning lines must be vertically aligned within the same color separation filter (emphasis added)*. (see page 10, last line through page 11, line 12 of paragraph (11))
- III. The Examiner's allegation that the preambles in claims 1 and 5 have not been ignored (see page 11, lines 12-17).

### **RESPONSE**

#### **I. THE EXAMINER'S ALLEGATION THAT SASAKI'S DRIVING METHOD PROVIDES ADEQUATE MOTIVATIONAL SUPPORT TO MODIFY IURA'S CAMERA**

On page 10 of the Examiner's Answer, the Examiner acknowledges In re Kotzab and maintains the position that Sasaki uses "a driving method equivalent to sequential scanning", asserting that the clockings used to provide the readout method is common to electronic cameras (citing Sasaki col. 6, lines 44-46). Thus,

the Examiner alleges that a “reasonable mind would clearly accept Sasaki as providing adequate support for modifying Iura with its driving method . . . “. This allegation appears to be pure conjecture on the part of the Examiner, and may present a new line of argument, for the Examiner has not previously discussed the reasonableness of the ordinarily skilled artisan. Regardless, Appellant submits that this argument does not bear through.

Appellant has reviewed the disclosures of Iura and Sasaki and does not see where there are explicit statements in these references that would support the Examiner’s alleged reasonableness interpretation in light of Kotzab. Motivation may come explicitly from the statements in the prior art, the knowledge of one of ordinary skill art, or in some cases, the nature of the problem to be solved. See Dembiczak 50 USPQ at 1614 (Fed.Cir. 1999).

Thus, the statement a “reasonable mind would clearly accept Sasaki as providing adequate support for modifying Iura with its driving method . . . ” based on an assertion that “the clockings used to provide the readout method (in Sasaki) is common to electronic cameras” still does not cure a central deficiency in both Iura and Sasaki. The “outputting of all pixel data in line sequential scanning” is not what is claimed in claims 1 and 5. What is claimed, and what is absent in Iura and Sasaki, is the step of reading signal charges stored in individual pixels by sequential scanning each horizontal scanning line to provide image signals of one frame to record.

Appellant respectfully requests that the Honorable Board consider the arguments presented above and in Appellant's' Appeal Brief and disallow this potential new ground of rejection.

**II. THE EXAMINER'S ASSERTION THAT SUGIHARA'S STRIPE COLOR FILTER CLEARLY SHOWS THAT EACH OF THE PIXELS IN THE EVEN AND ODD ADJACENT ODD SCANNING LINES MUST BE VERTICALLY ALIGNED WITHIN THE SAME COLOR SEPARATION FILTER**

The Examiner asserts that Sugihara's stripe color filter clearly shows that each of the pixels in the even and odd adjacent odd scanning lines must be vertically aligned within the same color separation filter. This clear showing arguably presents a new line of argument, since the Examiner indicates a positive shift in position. The Examiner appears to be relying on Fig. 3 of Sugihara to support this position. However, Fig. 3 shows "a portion of a photosensitive array 20a comprising a plurality of photoelements 21 distributed throughout an image sensor 20."

What is "clear" is this: the photoelements 21 (pixels) are arranged in a predetermined sequence (R G B R G B, etc.) in a horizontal row by a provision of dot filters (Sugihara col. 7, lines 26-28); that photoelements in a single vertical column have the same color selectivity (lines 29-30); that "the only requirement is that photoelements 21 maintain a fixed sequence", but that a sequence of color selectivity can be changed from row to row (lines 40-46).

The above indicates that Sugihara still does not, by an express reading of the disclosure describing the Figure the Examiner is relying upon, cure the deficiencies present in both Iura and Sasaki, that neither reference teach or suggest what claims 1 and 5 require: that each of the pixels in the even and odd adjacent odd scanning lines must be vertically aligned within the same color separation filter. Nor is there a requirement in claims 1 and 5 for additive interlacing, but only that each of the pixels in the even and adjacent odd scanning lines are vertically aligned within the same color separation filter.

Appellant therefore suggests that there is nothing "clear" found in this capability of Sugihara et al. that would fairly or reasonably lead to a conclusion that the pixels in the even and adjacent odd scanning lines are vertically aligned within the same color separation filter is taught or suggested. Again, this new assertion is believed to implicitly indicate the acknowledgement by the Examiner of one of the fundamental deficiencies with the applied reference with respect to the rejection of claims 1-6 on appeal.

### **III. THE EXAMINER'S ALLEGATION THAT THE PREAMBLES IN CLAIMS 1 AND 5 HAVE NOT BEEN IGNORED**

The Examiner alleges that he has not ignored the preambles in these claims; but as this is his first response to Appellant's argument regarding the preambles, this is a new argument presented by default. However, Appellant submits that in

light of the above argument in Section II *supra*, that the Examiner's position is without merit.

For example, in claim 5, the preamble recites "...a plurality of adjacent horizontal scanning lines of individual pixels intersected by three vertically-adjacent color separation filters forming columns in the solid-state imaging device, so that individual pixels of a plurality of adjacent horizontal scanning lines within a particular color filter detect a same color, ...". A similar recital is made in the preamble of claim 1. The horizontal scanning lines are referred to several times in the body of claims 1 and 5 with respect to the color filter(s), as are the individual pixels of these scanning lines. Such features regarding the claimed relationship between individual pixel, scanning line and color filter cannot be ignored, and breathe life and meaning into the claim.

Sugihara's Fig. 3 is an image sensor. There is no disclosure of three vertically-adjacent color separation filters forming columns in the solid-state imaging device, as recited in the preamble. As the Examiner's Answer marks the first time that the Examiner has apparently "given weight" to the preamble, Appellant respectfully requests that the Honorable Board consider the arguments presented above and in Appellant's' Appeal Brief and disallow this potential new ground of rejection.



**CONCLUSION**

For the reasons set forth above and for the reasons contained in the original Appeal Brief, Appellants respectfully submit that all claims of the present application are allowable. Thus, favorable reconsideration and reversal of the Examiner's rejections of claims 1-7 and 9 by the Honorable Board of Patent Appeals and Interferences is respectfully solicited.


Should there be any outstanding matters that need to be resolved in the present Appeal, the Examiner or Honorable Board is respectfully requested to contact Matthew J. Lattig (Reg. No. 45,274) at the telephone number of the undersigned below.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,

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